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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,088	04/13/2001	Gary Reding	20697-301	2977

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EXAMINER

DYE, RENA

ART UNIT PAPER NUMBER

3627

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,088

Applicant(s)

REDING ET AL.

Examiner

Rena L. Dye

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ML

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4,5-14, drawn to an Internet based system/system for facilitating commercial transactions.
 - II. Claims 15-20,21-22, drawn to a method of facilitating commercial transactions between a first class of participants and a second class of participants/a system for facilitating commercial transactions between first parties and second parties.
 - III. Claims 23-24, drawn to a server based system for facilitating transactions between buyers of a commodity and sellers of a commodity/a method for allowing a purchaser of a commodity to post information relating to bids to purchase commodities on a system.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group II and Group I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus/system such as a system wherein the first, second, third, (fourth) computing sub-systems are not operatively coupled. For example, the information submitted by both parties can be reviewed and modified accordingly, the information then being forwarded to an outside party where a contract can be drawn up between the two parties.

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3. Inventions Group II and Group III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different method steps which result in different functions.

Group II recites the steps of:

- Obtaining pricing data from a centralized source;
- Receiving bids from the second class of participants, wherein a posted offer is generated by the system based in part on the information provided and in part based upon the date obtained;
- Displaying the generated offer on the centralized electronic information exchange;
- Receiving a response from a given member of the first class of participants to the generated offer for a given member of the second class of participants;
- Communicating with the centralized source to attempt to generate a hedging transaction on behalf of the given member of the second class of participants; and
- Generating a contract between the given member of the first class of participants and the given member of the second class of participants.

Group III recites the steps of :

- Determining a quantity of a commodity to purchase;
- Determining a basis price for the commodity; and
- Posting the quantity and the basis price on a system configured to obtain a current trading price for the commodity from a commodities exchange, determine a flat price based on the basis price the trading price, deliver the determined price and the quantity to the seller, receive an offer from the seller, initiate communication with the futures commission merchant and negotiate a futures contract, and generate a contract between the purchaser and the seller.

4. Inventions Group I and Group III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the

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instant case the different inventions. Group III requires a (single) server system as claimed, whereas Group I requires a first, second, third (fourth) computing sub-system operatively coupled to the first. As claimed, Group III does not require specific computing sub-systems. Group III also does not require a fourth computing sub-system configured to receive responses from producers indicating an ability to deliver an available quantity of the commodity to the intermediary, as claimed in Group I.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Mr. Marc E. Brown on March 19, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rena L. Dye whose telephone number is 703-308-4331. The examiner can normally be reached on Monday-Tuesday 8:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rena L. Dye
Primary Examiner
Art Unit 3627

R. Dye
March 22, 2004